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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/562,028

12/23/2005

Eckhardt Lubke

ZAHFRI P802US

5557

20210 7590 12/05/2008
DAVIS & BUJOLD, P.L.L.C.
112 PLEASANT STREET
CONCORD, NH 03301

EXAMINER

PILKINGTON, JAMES

ART UNIT

PAPER NUMBER

3656

MAIL DATE

DELIVERY MODE

12/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/562,028	Applicant(s) LUBKE ET AL.	
	Examiner JAMES PILKINGTON	Art Unit 3656	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/22/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2005 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/23/05 3/22/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the structural detail including the connection between components and arrangement of the structure in the device as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). It currently appears that drawing is showing a schematic of the device in various operation arrangements and not the structure and the structural relations being claimed.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 5-8 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for all the structure being claimed, does not reasonably provide enablement for the relationship/connection between the structure in the device. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. For example the specification, drawings or claims do not disclose the following: How is the selection finger arranged relative to the grooves so that it engages the grooves? How are the rotatable axles arranged relative to each other? What are the wedge-shaped tips, are these part of the grooves? How is the compression spring arranged relative to the device to exert a force on the wedge-shaped tips? How is the neutral groove bound to each gear stage?

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Re clms 5-8, it is not clear what the applicant regards as his or her invention since the claims do not contain the terms "comprising" or "consisting" and are not written in accordance with 37 C.F.R. 1.75(i).

Re clm 6, it is not clear if there is one rotatable axle or multiple. Lines 2-3 claims rotatable axles (6) and the drawings show a plurality of reference characters 6 however line 4 and claim 7 recite a single rotatable axle. How many axles are there?

Re clm 6, it is not clear what the applicant is attempting to claim by the limitation "which on the rocking element are located on an end of the rocker element which is remote from the compression spring." Is the applicant attempting to claim the spring and wedge-shaped element are on opposite ends of the rocker arm? If so, where is this in the drawings?

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 5-8, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Bart, DE19543645 (cited by Applicant).

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Bart disclose a shift device for a transmission with a cam drive, which has a shifting roll (10) rotatably guided on an axle (11) and having grooves (7, 8, 9, 16), a selection finger (4, 5, 6, 17) which engages the grooves, rocking elements (edges of grooves) rotatable supported by the axle which are provided with wedge shapes (slopes of grooves) and a compressions spring (15) placed on one side of the rotatable axle to exert a force on the wedge-shaped tips (exerts force by biasing fingers against a wall of the grooves), wherein a neutral groove is bound to each groove.

8. Claims 5-8, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Bigi, US PGPub 2003/0213319.

Bigi disclose a shift device for a transmission with a cam drive, which has a shifting roll (29, See Figure 8) rotatably guided on an axle (17) and having grooves (30), a selection finger (13) which engages the grooves (30), rocking elements (edges of grooves) rotatable supported by the axle (17) which are provided with wedge shapes (slopes of grooves) and a compressions spring (35) placed on one side of the rotatable axle to exert a force on the wedge-shaped tips (exerts force by biasing fingers against a wall of the grooves 30), wherein a neutral groove is bound to each groove.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES PILKINGTON whose telephone number is (571)272-5052. The examiner can normally be reached on Monday - Friday 7-3.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571)272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAMES PILKINGTON/
Examiner, Art Unit 3656
12/1/08

/Richard WL Ridley/
Supervisory Patent Examiner, Art Unit 3656